

Office of the Secretary of Defense

§ 223.3

Defense (Professional Affairs and Quality Assurance) (ODASD(PA&QA)).

(3) Ensure that the NPDB is queried appropriately, in accordance with § 221.7.

§ 221.7 Information requirements.

(a) The method of reporting information to, and querying information from, the NPDB shall be by use of the Health Resources and Services Administration (HRSA) forms or, when possible, electronically.

(b) Reports to the ODASD(PA&QA) shall be submitted through electronic means, when available. Until then, DD Form 2499, "Health Care Provider Clinical Privileges Action Report," and DD Form 2526, "Case Abstract For Malpractice Claims," shall be used, as appropriate.

(c) The reporting requirements in this section have been assigned Report Control Symbols DD-HA(AR)1611 and DD-HA(AR)1782.

PART 223—DEPARTMENT OF DEFENSE UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION (DOD UCNI)

Sec.

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APPENDIX A TO PART 223—PROCEDURES FOR IDENTIFYING AND CONTROLLING DoD UCNI

APPENDIX B TO PART 223—GUIDELINES FOR THE DETERMINATION OF DoD UCNI

AUTHORITY: 10 U.S.C. 128 and 5 U.S.C. 552(b)(3).

SOURCE: 56 FR 64554, Dec. 11, 1991, unless otherwise noted.

§ 223.1 Purpose.

This part implements 10 U.S.C. 128 by establishing policy, assigning responsibilities, and prescribing procedures for identifying, controlling, and limiting the dissemination of unclassified information on the physical protection of DoD special nuclear material (SNM), equipment, and facilities. That information shall be referred to as "the Department of Defense Unclassified Con-

trolled Nuclear Information (DoD UCNI)," to distinguish it from a similar Department of Energy (DoE) program.

§ 223.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

(b) Implements 10 U.S.C. 128, which is the statutory basis for controlling the DoD UCNI in the Department of Defense. 10 U.S.C. 128 also constitutes the authority for invoking 32 CFR part 286 to prohibit mandatory disclosure of DoD UCNI under the "Freedom of Information Act (FOIA)" in 5 U.S.C. 552.

(c) Supplements the security classification guidance contained in CG-W-5¹ and CG-SS-1² and DoD Instruction 5210.67³ by establishing procedures for identifying, controlling, and limiting the dissemination of unclassified information on the physical protection of DoD SNM.

(d) Applies to all SNM, regardless of form, in reactor cores or to other items under the direct control of the DoD Components.

(e) Applies equally to DoE UCNI under DoD control, except the statute applicable to DoE UCNI (42 U.S.C. 2011 *et seq.*) must be used with the concurrence of the DoE as the basis for invoking FOIA (section 552 of 10 U.S.C.).

§ 223.3 Definitions.

(a) *Atomic Energy Defense Programs.* Activities, equipment, and facilities of the Department of Defense used or engaged in support of the following:

¹Controlled document. Not releasable to the public.

²Requests may be forwarded to U.S. Department of Energy (Forrestal Building), 100 Independence Avenue, SW., Attention: Distribution Office of DOE Publications, Washington, DC 20585.

³Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

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(1) Development, production, testing, sampling, maintenance, repair, modification, assembly, utilization, transportation, or retirement of nuclear weapons or nuclear weapon components.

(2) Production, utilization, or transportation of DoD SNM for military applications.

(3) Safeguarding of activities, equipment, or facilities that support the functions in paragraphs (a) (1) and (2) of this section, including the protection of nuclear weapons, nuclear weapon components, or DoD SNM for military applications at a fixed facility or in transit.

(b) *Authorized Individual.* A person who has been granted routine access to specific DoD UCNI under 10 U.S.C. 128.

(c) *Denying Official.* An individual who denies a request made under 5 U.S.C. 552 for all, or any portion, of a document or material containing DoD UCNI.

(d) *Document or Material.* The physical medium on, or in, which information is recorded, or a product or substance which contains or reveals information, regardless of its physical form or characteristics.

(e) *Information.* Any fact or concept regardless of the physical form or characteristics of the medium on, or in, which it is recorded, contained or revealed.

(f) *Reviewing Official.* An individual who may make a determination that a document or material contains, does not contain, or no longer contains DoD UCNI.

(g) *Safeguards.* An integrated system of physical protection, material accounting, and material control measures designed to deter, prevent, detect, and respond to unauthorized possession, use, or sabotage of DoD SNM, equipment or facilities.

(h) *Special Nuclear Material Facility.* A DoD facility that performs a sensitive function (see paragraph (i) of this section).

(i) *Sensitive Function.* A function in support of atomic energy defense programs whose disruption could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense

and security (see paragraph (a) of this section).

(j) *Special Nuclear Material (SNM).* Plutonium, uranium enriched in the isotope-233 or in the isotope-235, except source material or any material artificially enriched by any of the foregoing.

(k) *Special Nuclear Material Equipment.* Equipment, systems, or components whose failure or destruction would cause an impact on safeguarding DoD SNM resulting in an unacceptable interruption to a national security program or an unacceptable impact on the health and safety of the public.

(l) *Unauthorized Dissemination.* The intentional or negligent transfer, in any manner and by any person, of information contained in a document or material determined by a reviewing official to contain DoD UCNI, and so marked in accordance with the procedures in appendix A to this part, to any person or entity other than an authorized individual or a person granted special access to specific DoD UCNI under 10 U.S.C. 128.

§ 223.4 Policy.

It is DoD policy:

(a) To prohibit the unauthorized dissemination of unclassified information on security measures, including security plans, procedures, and equipment for the physical protection of DoD SNM, equipment, or facilities.

(b) That the decision to protect unclassified information as DoD UCNI shall be based on a determination that the unauthorized dissemination of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by increasing significantly the likelihood of the illegal production of nuclear weapons or the theft, diversion, or sabotage of DoD SNM, equipment, or facilities.

(c) That government information shall be made publicly available to the fullest extent possible by applying the minimum restrictions consistent with the requirements of 10 U.S.C. 128 necessary to protect the health and safety of the public or the common defense and security.